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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,149	12/01/2003	Takashi Nakatsuyama	50N3175.02	1767
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MAYER & WILLIAMS PC 251 NORTH AVENUE WEST 2ND FLOOR WESTFIELD, NJ 07090			EXAMINER BOSS, BROCK N	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 02/06/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/725,149	Applicant(s) NAKATSUYAMA, TAKASHI	
	Examiner Brock N. Boss	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/10/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-2, 6-9, and 11-20** are rejected under 35 U.S.C. 102(b) as being unpatentable by Hendricks et al. (US Patent Number 5,659,350).

Regarding **claims 1, 7, 14, 15, 17, and 20**, Hendricks discloses a method for receiving in a broadcast system, a computer readable medium containing program instructions that when loaded into a processor, cause the processor to perform the method a method for a receiver and/or transceiver, having a unique identification number (see Figure 6b, element 928) (see column 20, lines 66-67), only designated information (see column 11, lines 33-39) (see column 20, lines 54-66; column 21, lines 1-3), the method comprising the steps of: monitoring a broadcast index signal (i.e. program control information signal) containing tuning data (see column 19, lines 36-41, global channel ID); detecting and/or transmitting the unique identification number (see column 20, lines 63-67) associated with the receiver and/or transceiver in the broadcast index signal (see column 18, lines 1-7); downloading the tuning data (see column 19, lines 31-32) subsequent to detecting the unique identification number in the detecting step (see Figure 6a); storing the downloaded tuning data in memory (see column 20, lines 22-40); and tuning and receiving a program signal containing program data associated with

a program using the tuning data stored in said storing step (see column 11, lines 33-39). With respect to claims 7 and 17, Hendricks discloses transmitting to a wireless communication system a request signal and receive signal (see Figure 3) (see column 36, lines 7-57) (see also column 21, lines 4-16). With respect to claims 14 and 20, Hendricks discloses transmitting at least a portion of the stored tuning data from the first transceiver to a second transceiver (see Figure 3) (see column 36, lines 7-57) (see also column 21, lines 4-16).

Regarding **claims 2 and 16**, Hendricks discloses everything as claimed above (see claims 1 and 15), Hendricks discloses the method and computer readable medium containing program instruction performing the method wherein the tuning data includes a reference time (i.e. start times) at which the program data is broadcast in the program signal (see column 46, lines 15-19), and further comprising the step of: tuning to the program signal at approximately the reference time (see column 45, lines 41-55) (see Figure 16).

Regarding **claims 6, 8, 18** Hendricks discloses everything as claimed above (see claims 1 and 7, 17). In addition, Hendricks discloses the method and medium, wherein either or both the broadcast index signal and the program signal include data used to present a menu of new programs and/or updates to programs broadcast on the program signal (see column 37, lines 1-33) (see Figs. 19-21). With respect to claim 8, Hendricks discloses presenting a menu of program choices to a user on a display (see Figure 19).

Regarding **claims 9 and 19**, Hendricks discloses everything as claimed above (see claims 8 and 18). In addition, Hendricks discloses the method, wherein the request signal transmitted in said transmitting step is associated with a selection by the user from the menu of program choices (see column 11, lines 33-39).

Regarding **claim 11**, Hendricks discloses everything as claimed above (see claim 7). In addition, Hendricks discloses the method further comprising the steps of: outputting an order form on a display and transmitting an order associated with the order form for goods and/or services (see column 11, lines 47-54). (See also Hendricks US Patent Number 6,539,548, Figures 27-30).

Regarding **claim 12**, Hendricks discloses everything as claimed above (see claim 11). In addition, Hendricks discloses the method further comprising the step of outputting an invoice on the display (see column 11, lines 47-54). (See also Hendricks US Patent Number 6,539,548, Figures 27-30).

Regarding **claim 13**, Hendricks discloses everything as claimed above (see claim 8). In addition, Hendricks discloses the method further comprising the step of transmitting a payment by the user (see column 11, lines 47-54). (See also Hendricks US Patent Number 6,539,548, Figures 27-30).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 3-4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (US Patent Number 5,659,350) in view of Wannenmacher et al. (US Patent Number 6,178,447).

Regarding **claim 3**, Hendricks discloses everything as claimed above (see claim 1). In addition, Hendricks discloses the method wherein a tuning time is associated with the identification number of the receiver, and further comprising the steps of: configuring the receiver to operate in at least a first state during which the receiver monitors the index signal just prior to the tuning time, and a second state during which the receiver does not monitor the index signal.

However, Hendricks does not disclose configuring the receiver to operate in at least a first state during which the receiver monitors the index signal just prior to the tuning time, and a second state during which the receiver does not monitor the index signal.

In an analogous art, Wannemacher discloses a receiver to operate in at least a first state during which the receiver monitors the index signal (i.e. data stream) just prior to the tuning time (i.e. broadcast data), and a second state (e.g. power save mode) during which the receiver does not monitor the index signal (see column 5, lines 1-39).

It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify Hendricks' invention to include a second state which would not monitor the index signal for the predictable result of saving power and energy costs because monitoring a signal continuously consumes more power.

Regarding **claims 4**, Hendricks and Wannemacher disclose everything as claimed above (see claims 3). In addition, Wannemacher discloses the method of further comprising the step of: causing the receiver to enter a power saving mode during at least a portion of the second state (see column 5, lines 1-39).

5. **Claims 5 and 10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (US Patent Number 5,659,350) in view of Barrett et al. (US Patent Number 6,005,597).

Regarding **claims 5 and 10**, Hendricks discloses everything as claimed above (see claims 1 and 7). In addition Hendricks discloses the method further comprising the steps of: outputting a foreground program upon receiver power-on, and outputting a background program subsequent to the user selecting the background program for output.

However, Hendricks does not disclose outputting a foreground program upon receiver power-on, and outputting a background program subsequent to the user selecting the background program for output.

In an analogous art, Barrett discloses outputting a foreground program upon receiver power-on, and outputting a background program subsequent to the user selecting the background program for output (see column 4, lines 15-23).

It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify Hendricks' invention to include a default foreground program when turning the receiver on, and a outputting a background program when the user selects that program for the predictable result of simplifying a user's preferences and displaying the program the user wishes to see.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brock N. Boss whose telephone number is (571) 270-1660. The examiner can normally be reached on Monday-Thursday 9:30-7:30 Eastern Standard Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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2/3/2008



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